



**S t r a t e g i c   E n e r g y   L L C**

Two Gateway Center, Pittsburgh, PA 15222  
412-394-5600 Fax 412-258-4866 [www.sel.com](http://www.sel.com)

<b>DOCKET</b> 04-IEP-1	
<b>DATE</b>	FEB 08 2005
<b>RECD.</b>	FEB 09 2005

Carl W. Boyd  
Regulatory Compliance & Licensing Analyst  
412-644-3120  
[cboyd@sel.com](mailto:cboyd@sel.com)

February 8, 2005

California Energy Commission  
Docket Office  
Attn: Docket 04-IEP-01  
1516 Ninth Street, MS-4  
Sacramento, CA 95814-5512

<b>RECEIVED BY</b>
FEB 09 2005
CHIEF COUNSEL OFFICE

RE: Docket 04-IEP-01 -- Demand Forecasting Data Collection

To Whom It May Concern:

Enclosed is a hard copy of Strategic Energy's responses to the Demand Forecasting Data Request, along with a copy on compact disk. Also included is an Application for Designation of Confidential Records regarding same.

If you have any questions or comments regarding this submission, please feel free to contact me at (412) 644-3120.

Sincerely,

Carl W. Boyd  
Regulatory Compliance & Licensing Analyst

Enclosure

**State of California  
Energy Resources Conservation  
And Development Commission**

**APPLICATION FOR DESIGNATION OF CONFIDENTIAL RECORDS**

Pursuant to Section 25322 of the Public Resources Code ("PRC") and Section 2505(a) of Title 20 of the California Code of Regulations ("CCR"), Strategic Energy L.L.C. ("Applicant") hereby requests that the Commission designate as confidential portions of the information and data set forth in the Electricity Retail Price Forecast Forms 1.1, 1.3, 1.6, 2.3, 2.4, 4 and Form 6 and supporting workpapers submitted by Applicant on February 8, 2005.

Form 1.1 contains information on the total actual and forecasted sales of electricity broken down by utility and customer class. Historic years of this data (pre-2004) have been released to the public in aggregated form by the Energy Information Administration, thus this request is that data for the years 2004 on be held confidential.

Form 1.3 contains information on actual and forecasted coincident peak by sector and utility. This data has not been reported anywhere and this request is that this entire form be held confidential.

Form 1.6 contains information on actual and forecasted hourly loads. This data has not been reported anywhere and this request is that this entire form be held confidential

Form 2.3 contains information on electric and gas rate forecast information. Historic years of this data (pre-2004) have been previously reported to the Department of Energy and the Federal Energy Regulatory Commission, thus this request is that data for the years 2004 on be held confidential

Form 2.4 contains actual and forecasted customer counts. Aggregated forms of this data prior to 2004 may have been reported to various agencies, thus this request for confidentiality only covers 2004 on.

Form 4 contains information relating to Strategic Energy's Demand Forecast Methods and Models. The request is that this entire form be held confidential.

Form 6 contains information related to Strategic Energy's Uncertainty Analysis. The request is that this entire form be held confidential.

Applicant is not aware of any way in which information set forth in the above request could be legitimately acquired or duplicated by others.

Applicant submitted the information and data set forth in Forms 1.1; 1.3; 1.6; 2.3; 2.4; 4 and Form 6 and supporting workpapers in accordance with the Forms and Instructions adopted by the Commission in Order No. 04-1103-03. The Commission adopted the Forms and Instructions pursuant to its authority under PRC Section 25301(a), which authorizes the Commission to collect information and data from energy market participants that the Commission needs to prepare the biennial Integrated Energy Policy Report ("IEPR").

Under PRC Section 25322, the Commission is required to grant a request for confidential designation of information collected pursuant to Section 25301(a) if:

- (a) the information is exempt from disclosure under the California Public Records Act (Govt. Code §§ 6250 et seq.);
- (b) the information meets the confidentiality requirements set forth in the Commission's regulations; or
- (c) on the facts of the particular case, the public interest served by not disclosing the information outweighs the public interest served by disclosure.

The Public Records Act exempts "trade secrets" from public disclosure, including "any formula, plan, ... production data, or compilation of information ..., which is known only to certain individuals within a commercial concern who are using it to fabricate, produce, or compound an article of trade or a service ... and which gives its user an opportunity to obtain a business advantage over competitors who do not know or use it." (Govt. Code § 6254.7(d).)

The Commission's regulations provide for information to be designated as confidential if it "contains a trade secret or its disclosure would otherwise cause a loss of a competitive advantage." (20 CCR § 2505(a)(1)(D).)

Forms 1.1; 1.3; 1.6; 2.3; 2.4; 4 and Form 6 and the supporting workpapers submitted by Applicant contain trade secrets or otherwise commercially sensitive data. As the Executive Director correctly observed, this information "could provide significant insight into business strategies in a way that could harm the competitive situation of the filer."<sup>1</sup> For example, the information could be used to determine Applicant's historical and forecasted expenses, revenues, and operating margins. That information in turn could be used by Applicant's competitors to refine their business strategies. It could also be used by suppliers to Applicant's disadvantage in negotiating the terms of procurement transactions. And customers could use the information to extract better terms in contract

---

<sup>1</sup> Docket 04-IEP-1, *Guidance on Confidentiality of Electricity Demand and Retail Price Information* (Nov. 5, 2004), p. 3.

negotiations with Applicant. These examples are not meant to be exhaustive, but rather illustrate that disclosure of the information in question would cause Applicant a loss of competitive advantage on several levels.

For the foregoing reasons, Applicant requests that all of the information and data requested above in Forms 1.1; 1.3; 1.6; 2.3; 2.4; 4 and Form 6 and the supporting workpapers be designated as confidential. Applicant requests further that the designation of confidentiality be permanent. Applicant cannot foresee all of the possible ways in which disclosure of information about historical and forecasted revenue requirements could cause Applicant competitive harm in the future. It is almost certain, however, that disclosure would be costly for Applicant. Moreover, there is no compelling reason for the Commission to disclose the trade secrets or other commercially sensitive information submitted to it by non-utility businesses, either now or in the future.

Applicant believes that the public interest in having an open, public debate on key energy issues facing the state can be satisfied by disclosure of information submitted by Applicant and other electric service providers ("ESPs") aggregated on a state-wide basis. At a minimum, such information should be aggregated by utility service territory. In addition, information for a customer class should be aggregated with the information of one or more other classes where only a small number of customers in the class are served by ESPs.

The undersigned is authorized to make this application and the following certification on behalf of Applicant:

"I certify under penalty of perjury that the information contained in this application for confidential designation is true, correct, and complete to the best of my knowledge."

STRATEGIC ENERGY L.L.C.

By: 

Name: Jennifer Chamberlin

Title: Market Manager, Regulatory Affairs

Date: 2-8-05